

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Yvonne Burgi, and Robert J. Burgi,

Plaintiffs,

vs.

REPORT AND RECOMMENDATION

Gurstel Law Firm, PA, OSI Portfolio
Services, and John and Jane Does 1-10,

Defendants.

Civ. No. 07-4772 (PJS/RLE)

* * * * *

This matter came before the undersigned United States Magistrate Judge upon routine supervision of cases filed in this Division, and upon an assignment made in accordance with Title 28 U.S.C. §636(b)(1)(B).

This matter was initiated on December 6, 2007, by the filing of a Complaint with the Clerk of Court. See, Docket No. 1. On April 17, 2008, it having appeared that one hundred and twenty (120) days had passed and the Defendant OSI Portfolio Services had not been served with the Complaint and Summons as required by Rule 4(m), Federal Rules of Civil Procedure, this Court issued an Order, see, Docket No. 22, which stated as follows:

That the Plaintiffs are directed to show good cause, in writing, within twenty (20) days of the date of this Order, for an extension of time in which service can be effectuated. In the absence of good cause shown, the Court shall Recommend that this action be dismissed for failure to effect proper service upon the Defendant OSI Portfolio Services, and for failure of prosecution.

The Plaintiffs have failed to abide by the terms of our Order of April 17, 2008. Since we have previously warned the Plaintiff of the potential consequences for its failure to timely serve the Defendant OSI Portfolio Services, and to abide by the Orders of this Court, we recommend that this action be dismissed, as to the Defendant OSI Portfolio Services, for failure to comply with this Court's Order of April 17, 2008, for failure to effect proper service on the Defendant OSI Portfolio Services, and for lack of prosecution.

NOW THEREFORE, It is --

RECOMMENDED:

That this action be dismissed for failure to comply with this Court's Order of April 17, 2008, for failure to effect proper service on the Defendant OSI Portfolio Services, and for lack of prosecution.

BY THE COURT:

Dated: May 16, 2008

s/Raymond L. Erickson
Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than June 3, 2008**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than June 3, 2008**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.